

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4516 of 2007()

CRA.227/1999 of ADDL. SESSIONS COURT (ADHOC)-II, TRIVANDRUM
SC.233/1996 of ASSISTANT SESSIONS COURT, NEYYATTINKARA
.....

REVN. PETITIONER: APPELLANT/ACCUSED:

-
1. JAYASEKHARAN, S/O.KUTTY NADAR,
THEKKIYODU THEKKE VEEDU, IYNKAMOM DESOM,
PARASALA VILLAGE.
 2. DHANASEKHARAN, S/O.KUTTY NADAR,
THEKKIYODU THEKKE VEEDU, IYNKAMOM DESOM,
PARASALA VILLAGE.
 3. KANAKARAJ, S/O.RAMU NADAR,
CHERIYAVILA PUTHEN VEEDU, IYNKAMOM DESOM,
PARASALA VILLAGE.
 4. MANIKANTAN, S/O.PONNUMUTHAN,
NELLIKATTUVILA VEEDU, IYNKAMOM DESOM,
PARASALA VILLAGE.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: RESPONDENT/RESPONDENT:

STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM
(CRIME NO.126 OF 1991 OF PARASSALA POLICE
STATION).

BY PUBLIC PROSECUTOR SRI.K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR, J.
* * * * *
Crl.R.P.No. 4516 of 2007
* * * * *
Dated: 19-12-2007

ORDER

Petitioners who are accused Nos. 1 to 4 in S.C. 233 of 1996 before the Assistant Sessions Judge, Neyyattinkara for offences punishable under Sections 323 and 307 read with Section 34 I.P.C. challenge the conviction entered and the sentence passed against them for offences punishable under Sections 323 and 324 I.P.C.

2. The case of the prosecution can be summarised as follows:

On 12-6-1991 while the de facto complainant was standing in front of a pan shop at P.P.M. junction in Kaliyikkavila, the four accused persons in furtherance of their common intention to voluntarily cause the death of P.W.1 reached there and A1 stabbed P.W.1 on the left side of his chest with a knife and receiving the stab injury, P.W.1 fell on the ground. While so, A2 beat him with an iron rod and A3 inflicted a cut injury on his left leg using a chopper. A4 fisted him on his chest. The accused have thereby committed offences punishable under sections 323 and 307 read with Sec. 34 I.P.C.

3. On the side of the prosecution, altogether 14 witnesses

were examined as P.Ws 1 to 14 of whom P.Ws 1 to 3 and 6 are the occurrence witnesses. P.W1, the injured supported the prosecution whereas P.Ws 2, 3 and 6 turned hostile to the prosecution.

4. After the close of the prosecution evidence, the accused were questioned under Sec. 313 (1)(b) Cr.P.C. with regard to the incriminating circumstances appearing against them in the evidence for the prosecution. They denied those circumstances and maintained their innocence. They got marked as three documents as D1 to D3 when called upon to enter on their defence.

5. The learned Assistant Sessions Judge, after trial, as per judgment dated 4-6-1999 found the revision petitioners guilty of offences punishable under Sections 323 and 324 read with Sec. 34 I.P.C. For the conviction under Section 323 I.P.C. each of the revisions petitioners was sentenced to simple imprisonment for a period of three months and for their conviction under Section 324 I.P.C. each of them was sentenced to rigorous imprisonment for two years and also to pay a fine of Rs. 5,000/- each and on default to pay the fine to suffer simple imprisonment for three months. The substantive sentences were directed to run concurrently.

6. Eventhough the revision petitioners preferred an appeal before the Sessions Court, Thiruvananthapuram as CrI.Appeal 227 of

1999, as per judgment dated 31-10-2007 the Addl. Sessions Judge (Fast Track Court - Adhoc No. II) Thiruvananthapuram confirmed the conviction and sentence passed against them. Hence, this Revision.

7. Eventhough the learned counsel appearing for the revision petitioners assailed on various grounds the conviction recorded against the petitioners by the courts below, in as much as the said conviction has been entered after a careful evaluation of the oral and documentary evidence in the case, this Court sitting in revision will be loathe to interfere with the said conviction which is accordingly confirmed.

8. What now survives for consideration is the adequacy or otherwise of the sentence imposed on the revision petitioners. Admittedly the parties were inimically disposed of against each other. But having regard to the facts and circumstances of the case, I do not, however, think that the revision petitioners deserve penal servitude by way of incarceration for the offences. I am of the view that an appropriate sentence to undergo imprisonment till the rising of the court and an appropriate compensation to the injured shall meet the ends of justice. Accordingly, for their conviction under Sec. 323 I.P.C. each of the revision petitioners are sentenced to pay fine of Rs. 1,000/- and on default to pay the fine the revision petitioners shall

-:4:-

undergo simple imprisonment for one month. For their conviction under Section 324 I.P.C. each of the revision petitioners is sentenced to undergo imprisonment till rising of the court and to pay a fine of Rs. 4,000/- within 45 days from today failing which the defaulting accused shall undergo simple imprisonment for one month by way of default sentence. From out of the fine amount paid under Section 324 I.P.C. a sum of Rs. 3,000/- each shall be paid to P.W.1 by way of compensation .

This Revision is disposed of confirming the conviction entered but modifying the sentence as above.

**V. RAMKUMAR,
(JUDGE)**

ani.

